

REMARKS

The indication that claims 8 - 10, 12 - 16 and 19 - 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is acknowledged. Such claims have been retained in dependent form at this time, noting that claim 1 and other claims have been amended, as discussed below.

By the above amendment, claim 1 has been amended to recite the feature that the substantially linearly polarized light has a wavelength range from 200 nm to 400 nm, as previously recite in claim 18. Furthermore, claim 1 has been amended to refer to liquid crystal molecules so as to provide clear antecedent basis for the liquid crystal molecules of claim 2. Furthermore, claim 2 has been amended to clarify the features thereof, in now reciting the feature that an alignment direction of the liquid crystal molecules of the liquid crystal layer on a surface of said alignment control film is in parallel with or orthogonal to a polarization axis of the substantially linearly polarized light for irradiation, as described at page 39, lines 10 - 14 and page 75, lines 5 - 8 of the specification. Additionally, new dependent claims 25 and 26 have been presented wherein claim 25 recites features as described in connection with Examples 2, 6 and 9 of the specification and claim 26 recites features as described at page 35, lines 2 - 27 of the specification. Thus, it is apparent that the recited features are supported by the original specification.

The rejection of claims 1 - 7, 11 and 17 - 18 under 35 USC 102(b) as being anticipated by Yoneya et al (US 6,242,060) is traversed, insofar as it is applicable to the present claims, and reconsideration and withdrawal of the rejection are respectfully requested.

As to the requirements to support a rejection under 35 USC 102, reference is made to the decision of In re Robertson, 49 USPQ 2d 1949 (Fed. Cir. 1999), wherein the court pointed out that anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As noted by the court, if the prior art reference does not expressly set forth a particular element of the claim, that reference still may anticipate if the element is "inherent" in its disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Moreover, the court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

Applicants submit that the Examiner has mischaracterized the disclosure of Yoneya et al in relation to the wavelength range, as previously recited in claim 18, and now recited in claim 1. More particularly, the Examiner states that "With respect to claim 18, the wavelength 248 nm was used in the Comparative Example 11. Therefore, the reference teaching anticipates the claimed invention". (Emphasis added).

As described in the specification of this application, in the paragraph bridging pages 19 and 20 of the specification, "The present invention is characterized in that the polarized light used in the alignment processing has a wavelength range from 200 - 400 nm". Further, in connection with Example 1 in the paragraph bridging pages 38 and 39 of the specification, there is provided a description of UV light of 240 nm to 380 nm changed into linearly polarized light before irradiation so that the

alignment direction of the liquid crystal molecules on the surface of the alignment control film was found orthogonal to the polarization direction of the irradiated polarized UV light. Moreover, as described in the paragraph beginning at line 7 at page 41 of the specification, upon evaluation of the liquid crystal display of Example 1, advantageous effects were exhibited in that, "in a visual image quality after-image test, an excellent display characteristic was found without any uneven display due to image persistence or after-image". While the Examiner refers to the Comparative Example 11 of Yoneya et al in relation to a wavelength of 248 nm, applicants note that the only examples of wavelength of light in Yoneya et al in relation to the invention of Yoneya et al appear in EXAMPLE 18 at column 24, line 44, EXAMPLE 19 at column 25, lines 17 and 18, and EXAMPLE 20 at column 25, lines 61 - 62, with each Example describing "polarized light with a wavelength of 420 nm" (emphasis added). As described with respect to these Examples, contrast of the maximum luminance irregularity was determined to be about 0.5%, 0.6% and 0.3% for Examples 18, 19 and 20, respectively, and in a visual image quality test, detection of no display irregularity attributable to the difference in liquid crystal layer thickness of the liquid crystal panels, and high-uniformity display was obtained.

Applicants note that Yoneya et al provides many Comparative Examples which differ from the invention of the examples of Yoneya et al for different reasons and the Comparative Examples do not provide the effects of the invention as represented by the Examples of Yoneya et al. That is, "Comparative Example 11", as described in column 30, lines 25 - 34, describe that with respect to Example 1, differences with respect to Example 1 were utilized, including subjecting the layer surface to polarize light irradiation by excimer laser with "a wavelength of 248 nm" (emphasis added). However, "In the same evaluation as in Example 1, contrast of

the maximum luminescence irregularity was about 20% and color shading of display was conspicuous in the visual test." (Emphasis added). Thus, the Comparative Example 11 of Yoneya et al utilizing a wavelength of 248 nm does not obtain the feature of the invention of Yoneya et al. Applicants note that Example 1 of Yoneya et al does not disclose the wavelength of polarized light utilized, but the evaluation of Example 1 at column 16, lines 56 - 67 conforms to that of Examples 18 - 20 utilizing a wavelength of 420 nm. Thus, applicants submit that contrary to the position set forth by the Examiner, Yoneya et al discloses a wavelength of 420 nm is suitable, which is outside of the recited wavelength range of 200 nm to 400 nm, whereas Yoneya et al also recognizes that a wavelength of 248 nm does not provide the features as obtained with the wavelength of 420 nm. Accordingly, applicants submit that Yoneya et al teaches away from the wavelength range from 200 nm to 400 nm, as recited in claims 1 and 18 of this application, such that these claims and the dependent claims patentably distinguish over Yoneya et al in the sense of 35 USC 102, and all claims should be considered allowable thereover.

Further, with respect to the dependent claims, applicants note that claim 2 has been amended to recite the feature that an alignment direction of the liquid crystal molecules of the liquid crystal layer on a surface of the alignment control film is in parallel with or orthogonal to a polarization axis of the substantially linearly polarized light or irradiation. In contrast, Yoneya et al at column 15, lines 40 - 50 discloses "the polarized light transmission axis of one of the polarizers being arranged substantially parallel to the rubbing direction". (Emphasis added). Thus, irrespective of the contentions by the Examiner, such features as now recited in claim 2 are not disclosed by Yoneya et al. Accordingly, claim 2 and its dependent claims should also be considered allowable over Yoneya et al.

In view of the above amendments and remarks, applicants submit that all claims present in this application recite features not disclosed by Yoneya et al in the sense of 35 USC 102 and all claims should be considered allowable thereover. Accordingly, issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 45133X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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